

## M. V. FORSYTHE

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MAY 6 (legislative day, APRIL 30), 1942.—Ordered to be printed

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Mr. HUGHES, from the Committee on Claims, submitted the following

## REPORT

[To accompany H. R. 6594]

The Committee on Claims, to whom was referred the bill (H. R. 6594) for the relief of M. V. Forsythe, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 2010, Seventy-Seventh Congress, second session, which is appended hereto and made a part of this report.

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[H. Rept. No. 2010, 77th Cong., 2d sess.]

The Committee on Claims, to whom was referred the bill (H. R. 6594) for the relief of M. V. Forsythe, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Line 6, strike out the figures "\$5,000" and insert in lieu thereof "\$3,500".

The purpose of the proposed legislation is to pay to M. V. Forsythe the sum of \$3,000 for personal injuries sustained when the truck in which he was riding was struck by a United States Army truck on United States Highway No. 82, 3 miles west of El Dorado, Ark., on September 8, 1941.

## STATEMENT OF FACTS

On September 8, 1941, an Army truck operated by an enlisted man was proceeding west on United States Highway No. 82 at a speed of about 25 miles per hour. At about the same time, a Ford truck operated by M. V. Forsythe was proceeding in the opposite direction on the same highway at a speed of about 20 miles per hour, and approaching the Army vehicle. The Army vehicle, in disregard of State traffic regulations, pulled out on to the left side of the highway, in order to pass the vehicle in front of him; that there was a grade in the road, making it impossible for him to see the approaching truck driven by Mr. Forsythe; that after seeing the approaching truck, he tried to cut back on to his own side of the highway, and in doing so, the extending left side of the truck body struck the left arm of Mr. Forsythe which was resting on the lower part of the door window, causing injuries which necessitated its amputation above the elbow. Mr. Forsythe has incurred medical and hospital expenses in the sum of \$200.45,

and he is now unable to engage in the type of work in which he was experienced and had worked at for the past 11 years prior to the accident.

The War Department, in report dated March 16, makes no recommendation on the enactment of the bill, leaving the matter to the equitable determination of Congress for the reason that the enlisted man operating the vehicle at the time of accident was not at that time within the scope of his employment.

Your committee has consistently held that it is the duty of the War Department to see that its trucks are not used by the personnel for their own personal use. Numerous bills of this nature have, in the past, been reported by your committee and been approved by the President. Appended hereto is the report of the War Department together with other pertinent evidence.

WAR DEPARTMENT,  
Washington, March 16, 1942.

HON. DAN R. McGEHEE,  
*Chairman, Committee on Claims, House of Representatives,*  
Washington, D. C.

DEAR MR. McGEHEE: The War Department prefers to submit no recommendation either for or against the enactment of H. R. 6594, Seventy-seventh Congress, second session, a bill which would pay to M. V. Forsythe, of El Dorado, Ark., the sum of \$5,000 in full settlement of all claims against the United States for personal injuries sustained when the truck he was driving was struck by a United States Army truck on United States Highway No. 82, 3 miles west of El Dorado, Ark., on September 7, 1941.

On September 8, 1941, at about 1 a. m., an Army truck, operated by an enlisted man who had taken the vehicle without authority and for a personal mission, was proceeding west on United States Highway No. 82, at a speed of about 25 miles per hour, at a point about 1 mile west of El Dorado, Ark. At about the same time a Ford truck owned by Ralph H. Hendrix, of 903 East First Street, El Dorado, and operated by Marshall V. Forsythe, of El Dorado, with Mr. Hendrix and Johnie Beasley of Stamps, Ark., as passengers, was proceeding in the opposite direction on the same highway at a speed of about 20 miles per hour and approaching the Army vehicle. It was a clear, moonlight night, and the road was paved with concrete and was dry. In passing, the two vehicles collided, thereby giving rise to the personal injuries that are the subject of the proposed legislation.

As a result of the accident, both vehicles were considerably damaged, and Mr. Forsythe, the driver of the civilian vehicle, suffered injuries to his left arm which necessitated its amputation above the elbow.

With respect to Mr. Forsythe's injuries, Dr. J. B. Wharton, of El Dorado, Ark., made the following statement under date of September 8, 1941:

"This is to certify that I am the attending physician in the case of Mr. Marshall Forsythe, white male, El Dorado, Ark. I was called by the night supervisor of the Warner Brown Hospital at approximately 1:45 in the morning of September 8, 1941, to see him for the first time. On my arrival I found that he was suffering from a moderate amount of shock and excruciating pain in the left arm. He had, apparently, all of his mental faculties and could carry on a normal conversation. However, he had had an injection of one-fourth grain of morphine as per my instructions some 15 minutes before my arrival. There was no apparent odor of alcohol on the patient's breath. However, I cannot definitely say he had, or had not, been drinking some alcoholic beverage.

"His physical examination revealed a mangled condition of the left elbow, destroying blood vessels, bones, and nerves to such an extent that an amputation in the mid upper arm was essential and such performed. He withstood the operative procedure satisfactorily and at present his condition is fairly good."

No claim has been filed with the War Department growing out of this accident.

The investigating officer found, in part, that the only eyewitnesses to the accident were the driver of the Army vehicle, the driver of the civilian vehicle, and one of the passengers in the latter vehicle, Johnie Beasley, and that since these were the only eyewitnesses and their testimony was conflicting, it was impossible to determine beyond a doubt which driver was at fault. He further found that the Government vehicle was not on official business; that the driver thereof did not have permission to have the truck on the highway at the hour of the accident; and that the said driver was using the vehicle solely for his personal use.

Since it appears impossible to determine the responsibility for this regrettable accident, and since the driver of the Government vehicle was not at the time act-

ing within the scope of his employment, the Department, as stated above, prefers to make no recommendation in the premises, and leaves the matter to the equitable determination of the Congress. A copy of the report of the investigating officer is enclosed for the information of the committee.

Sincerely yours,

HENRY L. SIMSON,  
*Secretary of War.*

AFFIDAVIT OF M. V. FORSYTHE

STATE OF ARKANSAS,  
*County of Union, ss:*

M. V. Forsythe, being first sworn, on oath states:

My name is M. V. Forsythe. I am 43 years of age, and a resident of the city of El Dorado, Union County, Ark., where I have lived during the past 18 years.

On September 7, and for several days prior thereto, I was employed by Mr. Marshall Craig, doing pipe-line work in the McKamie oil field, about 10 miles south of Stamps, in Lafayette County, Ark. On completion of that job, our gang, that is, we who were working together, were ordered by Mr. Craig to return to El Dorado.

On the night of that day we started out from Magnolia to El Dorado sometime between 9 and 10 o'clock, that is, we, Ralph Hendrix, Johnie Beasley, and I, in a half-ton Ford V-8 pick-up truck, the three of us riding in the cab, with me doing the driving.

At a point about 3 miles west of El Dorado, we stopped and picked up two soldiers, and were approaching El Dorado on Highway 82, otherwise known as the El Dorado-Magnolia Highway, and at a point about one-half mile west of the city limits, our truck was crowded off the highway and run into by an Army truck, which, according to the best information that I have, which was furnished to me by a Mr. McWilliams, an employee of Mr. Marshall Craig, was truck No. W-442979, and which bore the insignia and identification of the Twenty-first Engineering Corps. This information was given to me later. I did not see the truck after the accident.

From the time I left Magnolia until the time of the accident I had at all times driven carefully, and at a safe rate of speed, and at the time of the accident I was driving with due care for the safety of myself and others.

This accident happened on the east slope of a hill immediately after we had come up the west slope and topped the hill and were descending on the east slope, and was the direct result of the careless and negligent driving of the person driving the Army truck in that he pulled out of line around a vehicle in front of him and attempted to pass while going west up the east slope of that hill.

By reason of the collision with the Army truck, the Ford truck that I was driving was badly damaged, the greatest damage being to the left front wheel, the left fender, and running board. In some manner unknown to me some part of the truck, either the projecting side, or some projection from the side of the truck, caught my left arm which I, according to my best recollection, was resting on the door to the cab of the truck that I was driving.

Immediately upon the crash or collision, I realized that I had received an injury to my left arm, and immediately got out from under the wheel following Mr. Beasley and Mr. Hendrix, who were riding with me, from the right side of the truck. The moment I got out of the truck, I fainted and became unconscious, and did not regain consciousness for something like 4 or 5 hours, at which time I was in the Warner Brown Hospital, and at which time I first learned that I had lost my left arm.

I did not remember anything that took place from the time I got out of the truck, immediately after the collision, until I regained consciousness some 4 or 5 hours later.

I was later told by Dr. J. B. Wharton, Jr., a practicing physician and surgeon of El Dorado, who was called to administer to me, that there was nothing for him to do but amputate my arm, which was amputated approximately 1½ inches above the elbow joint.

I remained in the hospital 10½ days, according to the attached statement, as given to me by the hospital; and on account of the services rendered me by the hospital, I am indebted to the Warner Brown Hospital in the sum of \$75.45.

I am also indebted to Dr. J. B. Wharton, Jr., for services rendered me up to November 8, 1941, in the sum of \$125, a statement of which is attached.

I have been engaged in oil-field work for the past 11 years, and because of the character of the work, I am now unable to hold any job or perform the work which I have customarily done for the past 11 years. In addition to that, since I have been discharged by my physician, I have tried to find some kind of suitable work that I could do under my handicap. Thus far, I have failed, and I do not know when I may be able to find some kind of gainful work or employment.

I am uneducated, and for that reason I have had to depend upon manual labor for my living, and for the reason that I am uneducated and unprepared to do any kind of work other than manual labor I will not be able to find some kind of work that I might do under my present handicap.

On the date of September 8, 1941, an Army officer of the rank of captain, who stated to me that his name was Emmett Y. Burton, Jr., and that he was captain of either the Twenty-first Field Artillery Battalion, or of the Twenty-first Engineer Battalion of Camp Robinson, Ark., came to me and requested me to make a statement to him concerning the accident.

Because of my condition of that day, I refused to give him a statement. On the following day he returned to the hospital, and I gave him a statement. At the time I made that statement, he questioned me as to whether or not I had been drinking, or was under the influence of intoxicating liquor at the time the accident happened. I stated that I was not. I do not recall if I told him, or if the statement was included in my statement to him, but I do state that that afternoon, at about 6 o'clock, on September 7, and prior to the accident, I had drunk one bottle of beer at Magnolia, which was something like 6 hours prior to the accident.

I have never heard anything further from any of the Army officials after the 9th day of September, 1941, and, insofar as I know, no inquiry came from them about my condition.

Witness my hand this 22d day of December 1941.

M. V. FORSYTHE.

Subscribed and sworn to before me, the undersigned authority, a notary public this, the 22d day of December 1941.

[SEAL]

ROY H. LEWIS, Notary Public.

My commission expires May 20, 1945.

EL DORADO, ARK., September 18, 1941.

MR. M. V. FORSYTHE,  
General Delivery, El Dorado, Ark.

TO WARNER BROWN HOSPITAL, DR.

Account of: Self.

Sept. 8 to Sept. 18, 1941:

Hospital care, 10½ days, at \$4.50 per day.....	\$47. 25
Operating-room fee.....	10. 00
Medicine and supplies.....	16. 20
Laboratory: Urinalysis.....	2. 00

Total.....	75. 45
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DRS. WHARTON & WHARTON,  
El Dorado, Ark., December 23, 1941.

MR. M. V. FORSYTHE,  
El Dorado, Ark.

DEAR MR. FORSYTHE: At your request I am giving you a statement of the surgery I have done for you and the present condition of the injury, as well as the bill for these services.

On September 8 about 1:30 or 2 o'clock in the morning I was called to the Warner Brown Hospital in El Dorado to attend you. At that time I found it necessary to amputate your left arm above the elbow due to such a severe injury that had apparently just been received. You were treated for shock and the amputation was done immediately under general anesthesia. Your convalescence was quite satisfactory and under the circumstances you have as good a stump as can be expected. However, you will, as in nearly every case like this, suffer a moderate amount of discomfort for approximately a year and occasionally varying degrees of discomfort probably for the rest of your life.



I have as yet received no compensation for the services rendered you and the total of my bill is \$125.

I shall be glad to furnish any further information necessary in your case.

Yours very truly,

J. B. WHARTON, Jr.

AFFIDAVIT OF R. A. LINDSLEY

STATE OF ARKANSAS,

*County of Union:*

R. A. Lindsley, being first duly sworn, states on oath as follows:

My name is R. A. Lindsley. I live and reside at 112 North Jackson Street, city of El Dorado, Ark. I am now employed, and have been employed for the past 9½ years, by the Lion Oil Refining Co.

I am personally acquainted with M. V. Forsythe. I knew him prior to September 8, 1941, and have known him for approximately 6 years.

On the night of September 7, and at about 12:30, on the morning of September 8, I was returning from my regular job or place of employment in the Schuler oil field of Union County, traveling on Highway 82, otherwise known as the El Dorado-Magnolia Highway, when the gasoline in my car gave out, and because of the hour and the fact that the filling station near that place was closed, I left my car parked on the side of the highway and was walking east toward the city of El Dorado.

I had traveled east something like 200 yards from my car, and was going down the east slope of a hill when I met a light truck traveling west and going up the hill. My attention was especially attracted to this light truck because of the bright lights. The lights from that truck at first blinded me, and I stepped far to the side of the road to be sure that I was out of danger. I was walking on the right-hand side of the highway.

Because of my attention being called to this truck, I also noted that immediately following that truck was an Army truck which was about 75 feet behind.

I continued to walk east until my attention was attracted by the sound of the collision that took place between the Army truck and a half-ton Ford V-8 truck, which was coming up to the rear of me, and traveling east in the same direction that I was going.

I immediately turned and ran back to the scene of the collision, which had taken place about 150 feet behind me.

On arriving at the scene, I found Mr. M. V. Forsythe had been injured as a result of the collision, and that some three or four other men were already at the scene. Of this number there were two soldiers, or men in uniform. I did not know where they came from, although I later understood that they were riding in the truck with Mr. Forsythe, Mr. Beasley, and Ralph Hendrix. There was also another man there who was driving the light truck which I had met driving ahead of the Army truck. This man drove up to the top of the hill, turned around and came back to the scene of the accident, and volunteered to come to town, or at least, to a telephone to call an ambulance to come for Mr. Forsythe.

Immediately upon arriving at the scene and realizing Mr. Forsythe's condition, one of the soldiers, or men in uniform, and I tied our handkerchiefs together and made a tourniquet to apply to Mr. Forsythe's arm in an effort to keep him from bleeding to death.

Within a short time, there were a number of vehicles traveling in either direction on the highway, that had pulled up and stopped near the scene of the accident, and a number of people were collected around. There were a number of us who stood around for some time after the ambulance had taken Mr. Forsythe to the hospital, and during that time, an Army truck drove up, and the driver of that truck got out, threw his flashlight over Mr. Forsythe's truck, and asked a number of questions about the accident, and how it happened, and I assumed that he probably was with the military police, or someone in authority, and making an investigation of the collision.

Within a short time, however, some military officials in uniform appeared on the scene, and in a very short time, the soldier driving the Army truck drove on east toward El Dorado, after having stated to the officers that neither he nor the truck that he was driving were involved in the accident.

The officers left within a short time, and it was only a short time until this same soldier passed the scene of the accident, driving west, turned around, came back by the scene, and again stopped the Army truck, and proceeded to ask further questions.

It was on this second stopping of the Army truck and the continued questions by the soldier that we became suspicious because of his interest in the collision

that he must have been involved. Marshall Craig, a Mr. McWilliams, and Ralph Hendrix and I went and examined the Army truck, which had been stopped near the scene, and we found on examining this truck that it bore evidence of having been in the collision.

On the driver's side of the truck there were marks of the collision, blood and human flesh. All of this evidence was on the left-hand side of the truck, which was, of necessity, the side that came in contact with Mr. Forsythe's truck.

Immediately, when the soldier, or man in uniform, found that we were investigating his truck for evidences of the collision, he got into his truck and started off, but was stopped by Mr. Craig or Mr. Hendrix long enough for them to take down the identification numbers and insignias on the truck.

There were physical evidences that the collision took place far over to the south side of the highway, as there were signs or marks of tires on the concrete pavement and some mail boxes off to the side of the highway were torn down as a result of the collision. All of this was evidence to me that the truck in which Mr. Forsythe was riding traveling toward El Dorado was struck away over to the right-hand or south side of the highway.

By reason of my close contact with Mr. Forsythe in helping to apply the tourniquet to his arm, I had every opportunity to detect whether or not he was drinking, and I found no evidence of his drinking.

On the same day, about 15 hours later, or about 3 in the afternoon, I was called over the telephone by someone who represented himself to be connected with the Army, and was asked if I would meet him at some convenient place, and I suggested meeting him at the Lion Oil Refining Co. filling station located at the intersection of West Avenue and West Hillsboro Street, and, on arriving there, I learned that it was an Army official who was making the investigation, and taking my statement. At that time, I gave a statement similar to this. While not stated in the same words, the substance of my statement given at that time is the same as this.

Witness my hand, this, the 23d day of December 1941.

[SEAL]

R. A. LINDSLEY.

Subscribed and sworn to before me, this 23d day of December 1941.

ROY H. LEWIS, *Notary Public.*

My commission expires May 20, 1945.

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#### AFFIDAVIT OF JOHNIE BEASLEY

STATE OF ARKANSAS,

*County of Union:*

Johnie Beasley, being first duly sworn, states on oath as follows:

I am living and residing at present at 700 Spring Street, in the city of El Dorado, Union County, Ark. I am 26 years of age. I was born and reared in Lafayette County, Ark., near the town of Stamps.

I am personally acquainted with Mr. M. V. Forsythe.

On the 7th day of September 1941, and for several days prior thereto, I was working for Mr. Marshall Craig, of El Dorado, Ark., and with Mr. M. V. Forsythe in a pipe-line gang doing pipe-line work in the McKamie oil field of Lafayette County, Ark., and about 10 miles south of Stamps.

On completion of that job, we were ordered by Mr. Marshall Craig to come in to El Dorado, and at about 12:30 a. m., or some time shortly after midnight, on September 8, while Mr. M. V. Forsythe, Ralph Hendrix, and I were approaching the city of El Dorado in a half-ton Ford V-8 pick-up truck, and while driving on Highway 82, known as the El Dorado-Magnolia Highway, and at a point approximately one-half mile west of the western corporate limits of the city of El Dorado, we were crowded off the highway and run into by an Army truck, which was being driven by a soldier in uniform, which resulted in considerable damage to the truck we were driving, especially to the left front fender, the left front wheel and running board, and the left side in general, and which also resulted in injury to the person of Mr. M. V. Forsythe.

The three of us had left Magnolia somewhere between 9 and 10 o'clock, with Mr. Forsythe driving, and we traveled that way until we reached a point at about 3 miles west of El Dorado, where we stopped on being flagged by two soldiers in uniform, and they were riding on an improvised seat with their backs to the cab of our truck. There were five of us in the truck at the time of the collision or accident.

Just immediately prior to the accident, we had topped a hill as we were coming east, and were starting down the east slope of the hill. I observed on the

highway ahead of us the lights of two cars, and just before or at about the time we were meeting the first car, the Army truck pulled out of line from behind the first car and attempted to pass on the hill, crowding our truck off to the right-hand side or shoulder of the highway, and running into and smashing the left side of our truck.

Immediately after the crash, I heard Mr. Forsythe state that his arm was broken or crushed, and we got out of our truck on the right-hand side, and immediately on his getting out from under the wheel and off the seat, he fainted and fell to the ground.

One of the soldiers who was riding in our truck, whose name I never learned, and another man, whose name I afterward learned was Lindsey, and I began immediately to wrap up Mr. Forsythe's arm in an effort to stop the bleeding.

The Army truck failed to stop on the scene of the accident, and if it stopped at all, it was after it had pulled on over the top of the hill, but immediately a number of cars and other vehicles stopped at and around the scene of the wreck, and by someone we sent word in to have an ambulance come out to take Mr. Forsythe to the hospital.

Within a short time an ambulance arrived and one of the soldiers and I rode in the ambulance with Mr. Forsythe, carrying him to the Warner Brown Hospital in the city of El Dorado.

I observed immediately after the accident, and while tying up his arm, that it was in a mangled condition, but I did not realize that it was in as bad condition as it was until we arrived at the hospital, where I could see under the lights that it was in a very bad condition, and was entirely crushed off, with the exception of one tendon, which was holding at the elbow.

Dr. Joe B. Wharton, Jr., a regularly practicing physician in El Dorado, was called to the hospital to treat Mr. Forsythe, and I heard him state when he arrived that it would be necessary to amputate the arm.

I left the hospital at about 3:30 a. m., but before leaving the hospital, I went out and notified his daughter and returned with her to the hospital. I returned to the hospital to see and inquire about him twice on the same day.

On that same day, there was an Army officer who came out to interview me at the home of Mrs. J. L. Caldwell, where I was staying, and requested me to make a statement concerning the accident. This I did, and the officer had a soldier in uniform with him, who, as I thought, was taking down my statement in shorthand as I made it. I agreed to meet him at the Warner Brown Hospital and sign it after it had been transcribed, but when the statement was presented to me and I had read it over, I learned that they had added some statements that I could not truthfully make, and for that reason, refused to sign the statement in that form.

Apparently my refusal to sign the statement angered the Army officer, and he threatened to have me arrested for refusing to sign the statement. I consulted an attorney, and was advised by him that I could not be forced to make the statement, and I so advised the officer requesting it. Upon my final refusal to sign, he left me, with a parting statement or threat that he would be back to see me with a warrant. I never saw them any more, and I never learned the names of either of them, the officer or the soldier in uniform.

Neither did I have an opportunity of observing any identification numbers or other marks of identification of the truck involved in the accident.

I have at various times since this accident seen Mr. Forsythe, and I know that he has suffered the loss of his left arm, which was amputated just above the elbow. I know that he has not been regularly employed since he lost his arm.

As I have heretofore stated, I was riding in the cab seat with Mr. Forsythe and Ralph Hendrix at the time this accident happened, and Mr. Forsythe was driving. I know that prior to the accident, he had not been driving recklessly, and at the time of the accident he was not driving recklessly, and that this accident was through no fault of his, and it is my judgment and opinion that the accident would not have happened had the driver of the Army truck observed the customary rules of driving, and had he not attempted to pull around the car or vehicle in front of him while driving up the hill.

Witness my hand this the 22d day of December, 1941.

JOHNIE BEASLEY.

Subscribed and sworn to before me, the undersigned authority, a notary public, this the 22d day of December, 1941.

[SEAL]

ROY H. LEWIS, Notary Public.

My commission expires May 20, 1945.

